

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JOYCE JOHNSON,)	
)	
Plaintiff,)	
)	
v.)	No. 4:06CV1287 (CAS)
)	TIA
LINDA S. McMAHON,)	
COMMISSIONER OF SOCIAL SECURITY,)	
)	
Defendant.)	

MEMORANDUM AND RECOMMENDATION

This matter is before the Court, sua sponte, upon review of the file. All pretrial matters were referred to the undersigned United States Magistrate Judge pursuant to 28 U.S.C. § 636(b), for appropriate disposition.

This cause is on appeal from an adverse ruling by the Social Security Administration. Plaintiff is proceeding in this cause with the assistance of retained counsel. Plaintiff's Complaint was filed on August 25, 2006. (Docket No. 3). On September 7, 2006, the Court entered a Case Management Order setting out the briefing schedule to be followed in this cause in accordance with Rule 9.02 of the Local Rules of this Court.¹ (Docket No. 3).

Defendant Commissioner of Social Security timely filed her Answer to Plaintiff's

¹Local Rule 9.02 provides:

[T]he Commissioner shall file any motion to dismiss, motion to remand, and/or answer within sixty (60) days of service of the complaint. ... The plaintiff shall, unless otherwise ordered by the court, serve and file a brief in support of the complaint within thirty (30) days after the Commissioner's service of an answer and the administrative transcript. The Commissioner shall serve and file a brief in support of the answer within thirty (30) days after service of the plaintiff's brief. Plaintiff shall have ten (10) days after service of the Commissioner's brief to file a reply brief.

Complaint on November 16, 2006. (Docket No. 8). As such, pursuant to Local Rule 9.02, Plaintiff's brief in support of her Complaint was to be filed not later than January 16, 2007. On April 26, 2007, Plaintiff was therefore ordered to "file her brief in support of her Complaint no later than May 29, 2007. Failure to timely respond to this Order may result in the dismissal of this cause for failure to prosecute and failure to comply with Orders of the Court." (Docket No. 11). A review of the Court file shows that, to date, Plaintiff has failed to file her Brief in Support of her Complaint or in any way respond to this Court's Order of April 26, 2007. In addition, plaintiff has not filed a request for additional time or in any other way complied with the Local Rules or previous Orders of this Court. Accordingly,

IT IS HEREBY RECOMMENDED that this cause is dismissed without prejudice for failure to prosecute; for failure to comply with this Court's Order of April 26, 2007; for failure to comply with this Court's Case Management Order of September 7, 2006; and for failure to comply with Local Rule 9.02 of this Court.

The parties are advised that they have eleven (11) days in which to file written objections to this Report and Recommendation. Failure to timely file objections may result in waiver of the right to appeal questions of fact. Thompson v. Nix, 897 F.2d 356, 357 (8th Cir. 1990).

Dated this 31st day of May, 2007.

/s/ Terry I. Adelman

UNITED STATES MAGISTRATE JUDGE